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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,333	02/12/2001	William H. Voltmer	IRID-0106	1961

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EXAMINER

STULBERGER, CAS P

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/781,333	Applicant(s) VOLTMER ET AL.	
	Examiner Cas Stulberger	Art Unit 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2005.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26,28-32 and 34-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26,28-32 and 34-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*PS*

### **DETAILED ACTION**

1. This action is responsive to communications: application, filed 02/12/2001; amendment filed 04/05/2005.
2. Claims 1-26, 28-32, and 34-37 are pending in the case. Claims 27, and 33 are cancelled. Claims 1, 22-23, 28, and 35-27 are independent claims.

### ***Response to Amendment***

3. Applicant argues that Cumbers does not disclose “wherein an individual’s entitlement to the privilege is based upon enrollment that includes submission of personal information and a first biometric, and where the personal information is not stored in the database.” Cumbers teaches that prior customer tracking systems identify customers by entering information (personal information) such as a credit card, smart card, of PIN number, and also providing a confirming identification by matching biometric information with information on file (Cumbers: column 1, lines 50-53). This meets the limitation of “wherein an individual’s entitlement to the privilege is based upon enrollment that includes submission of personal information and a first biometric, and where the personal information is not stored in the database.”

In view of the rejections and response to arguments above, the prior art rejections are maintained. The grounds of rejection as set forth in the previous office action is reproduced below.

### ***Claim Rejections - 35 USC § 102***

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1-18, and 21-37, are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No 6,554,705 B1 to Cumbers.

6. In regards to claims 1-6 16-18, 21-23, 26-33, 35, and 37, Cumbers discloses a computer-based customer tracking system which uses passive biometric identification for identifying customers which are not required to enter any informational data (Cumbers: Abstract, first line). This meets the limitation of “anonymous biometric authentication.” Cumbers discloses assigning a code or identification number to the user’s file (Cumbers: Abstract). Biometric information is accumulated from each person entering the environment and is compared with information within the various files in the library (Cumbers: column 2, lines 16-19). This meets the limitations of “a biometric acquisition device, and a database comprising a plurality of first biometrics.” If matching data is found in the library then information with respect to the customer’s prior activity is retrieved from the file (Cumbers: column 2, lines 60-62). This meets the limitations of “a processor coupled to said biometric acquisition device for receiving said second biometric and coupled to said database for accessing said stored first biometric, said processor having a comparator for comparing said second biometric to said first biometrics stored in said database, wherein an anonymous biometric authentication of an identity of said

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individual is based on said comparison of said second captured biometric to said first stored biometric.”

7. In regards to claims 10-11, 25, and 34, Cumbers discloses a retina scan (Cumbers: column 4, lines 1-8).

8. In regards to claims 7-9, 12-15, 24, Cumbers discloses the customer using a credit card (Cumbers: column 1, lines 49-51). Cumbers also disclose that in the tracking system of the invention, a customer enters a predesignated zone for the purpose of engaging in a transaction such as the cash register or checkout area of a retail business (Cumbers: column 3, lines 51-60).

9. In regards to claim 36, although Cumbers does not disclose a method of revoking user's privileges from a database, Cumbers does disclose enrollment (Cumbers: Abstract; column 1, lines 42-47, and 49-57). It is an inherent feature of any system that has a method of enrollment to a database to also have a method of revoking the user and their privileges from the database.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No 6,554,705 B1 to Cumbers as applied to claims 1-4, 7-9, 10-18, and 21-34 above, and further in view of U.S. Patent No. 6,289,113 B1 to McHugh et al.

12. In regards to claims 19-20 Cumbers does not disclose encrypting the biometrics. McHugh discloses that after extracting the biometric and producing a template, it is encrypted (McHugh: column 13, lines 64-67; column 14, lines 1-4). The encryption can be with any of the known encryption techniques using public and private keys to encipher and decipher the data. (McHugh: column 14, lines 4-6).

13. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method of an anonymous biometric system as disclosed by Cumbers with the method of encrypting the biometric as disclosed by McHugh in order to enhance the security of the transactions making them less susceptible to theft, alteration, or interception (McHugh: column 14, lines 11-15).

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

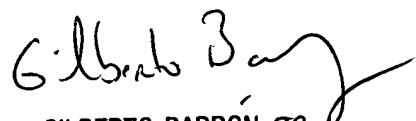
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cas Stulberger whose telephone number is (571) 272-3810. The examiner can normally be reached on Monday - Friday, 9:00A.M. - 6:00P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CS

CS  
August 24, 2005

  
GILBERTO BARRÓN JR.  
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